

TALBOT COUNTY BOARD OF APPEALS

Appeal No. 15-1632

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 7:00 p.m., July 13, 2015, on the application of **SEAN R. and LISA R. CREAMER** ("Applicants"). The Applicants are requesting a variance of the required 100-foot Shoreline Development Buffer to permit the vertical expansion of a portion of the existing residence located 72.6 feet from Mean High Water ("MHW"). The height of the main part of the house is 36'0". The proposed addition will increase the height of a part of the existing home from 14'1" to 27'0" measured from ground level to the highest part of the addition. The property is located on 7260 Green Banks Lane, Royal Oak, Maryland 21662 in the Village Center/Critical Area (VC/CA) zone. The Applicants own the property. The request is made in accordance with Chapter 190 Zoning, Article VI, §190-139 and Article IX, §190-182 of the Talbot County Code ("Code").

Present at the hearing were Board of Appeals members Paul Shortall, Jr., Chairman, Phillip Jones, Vice Chairman, Margaret Young, Louis Dorsey, and Frank Cavanaugh. The Applicants were represented at the hearing by their agent and architect, Gregory Wiedemann, Wiedemann Architects, LLC, 5272 River Road, Bethesda, Maryland 20816. Jeremy Rothwell, Planner I, Talbot County Planning and Zoning, attended the hearing. Glenn D. Klakring was the attorney for the Board of Appeals.

It was noted for the record that each member of the Board had individually visited the site.

The following exhibits were offered and admitted into evidence as Board's Exhibits as indicated:

1. Application for critical area variance with Attachment A.
2. Copy of a portion of the Talbot County tax map with the property highlighted.
3. Appeals Notice of Public Hearing.
4. Certificate of publication of the Notice of Public Hearing from the *Star-Democrat*.
5. Notice of hearing with a list of nearby property owners attached.

6. Copy of critical area variance requirements from the Code with the written responses of the Applicants to each applicable warrant.
7. Staff memorandum.
8. Sign maintenance agreement.
9. Site plans.
10. Floor plans and elevation drawings.
11. Letter from Critical Area Commission.
12. Authorization letter dated June 5, 2015.
13. Independent Procedure Disclosure and Acknowledgement Form.
14. Aerial photograph.
15. Photograph from staff site visit.
16. Critical Area Lot Coverage Computation Worksheet (two pages).

Mr. Wiedemann testified in support of the application. He first offered ten photographs of various views of the existing house. The photographs were admitted collectively as Applicants' Exhibit No. 1.

Mr. Wiedemann explained that the proposed vertical expansion is on a portion of the existing home that was a one story addition to the home. The addition, constructed before the enactment of the Critical Area laws, has a flat roof. The flat roof is failing, leading to potential structural damage to the rest of the structure. Also, the addition as it currently exists is not visually compatible with the original historic home. The Applicants propose to renovate the addition as a one and one half story addition. It will have a sloped roof that is more weather resistant and is architecturally compatible with the original home.

The proposed new addition will reduce the total footprint of the existing home by 55 square feet, including 41 square feet in the 100-foot Shoreline Development Buffer. It will not be any closer to MHW

than the existing house. The addition will increase the total interior floor area of the home by 230 square feet. (The Applicants are also proposing to reconstruct an existing wraparound porch. That development activity is outside the 100-foot Shoreline Development Buffer and not subject to this variance request.)

No one appeared in opposition to the application.

The Board then considered the application. After some discussion the Board, upon motion made by Mr. Jones and seconded by Mr. Dorsey approved the requested variance by a vote of five to zero.

The Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. Special conditions or circumstances exist that are peculiar to the land or structure such that a literal enforcement of the provisions of the ordinance result in unwarranted hardship to the property owner. The proposed development activity will not increase impervious surface within the Shoreline Development Buffer. The proposed new addition will have a somewhat smaller footprint in the buffer. It will also replace a failing flat roof with a new structure which is more architecturally compatible with the original historic home.
3. A literal interpretation of the ordinance will deprive the property owner of rights commonly enjoyed by other property owners in the same zone. The property was developed prior to the establishment of the Critical Area restrictions. The Applicants are not proposing to increase lot coverage in or outside the shoreline buffer.
4. The granting of the variance will not confer upon the property owners any special privilege that would be denied by the ordinance to other owners of lands or structures within the same zoning district. Given similar circumstances other property owners would likely have the same privilege.

5. The variance request is not based on conditions or circumstances which are the result of actions by the Applicants, including the commencement of development activity before an application for variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
6. The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat, and the granting of the variance will be in harmony with the general spirit and intent of the state Critical Area Law and the Critical Area Program. The requested variance has been designed to have little, if any, adverse environmental impact. As noted above, the Applicants do not propose to expand any lot coverage, remove any vegetation, or permanently alter any of the existing site conditions in the buffer.
7. The variance does not exceed the minimum adjustment necessary to relieve the unwarranted hardship.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY THE TALBOT COUNTY BOARD OF APPEALS,

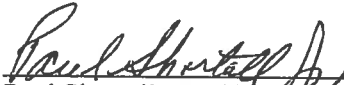
RESOLVED, that the Applicants, **SEAN R. and LISA R. CREAMER** (Appeal No. 15-1632) are **GRANTED** the requested critical area variance consistent with the evidence presented to the Board of Appeals, subject to the following conditions:

1. The Applicants shall make applications to and follow all of the rules procedures, and construction timelines as outlined by the Department of Permits and Inspections.
2. The Applicants shall commence construction on the proposed improvements within eighteen (18) months from the date of this Decision.

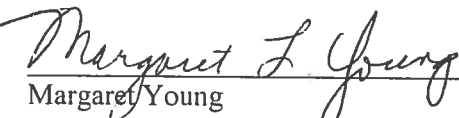
3. The Applicants shall be required to submit a Buffer Management Plan to address any mitigation required throughout the construction.
4. Natural vegetation of any area three times the extent of the approved disturbance in the buffer (if any) shall be planted in the buffer or on the property if planting in the buffer cannot be reasonably accomplished. A Buffer Management Plan application may be obtained through the Department of Planning and Zoning.

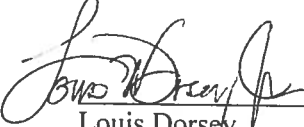
GIVEN OVER OUR HANDS, this 1st day of September, 2015.

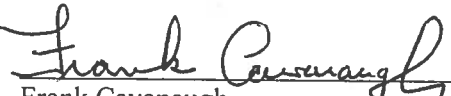
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Paul Shortall, Jr., Chairman


Phillip Jones, Vice Chairman


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Board of Appeals/1632.CreamerVarianceCA

